

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ROBERT F.)	APPEAL NO. 06-A-2051
PETTIT from the decision of the Board of Equalization)	FINAL DECISION
of Shoshone County for tax year 2006.)	AND ORDER

LANDLOCKED PROPERTY APPEAL

THIS MATTER came on for hearing October 26, 2006, in Wallace, Idaho, before Board Member Vernon L. Driver. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Robert Pettit appeared for himself. Assessor Jerry White and Appraiser Greg Saylor appeared for Respondent Shoshone County. This appeal is taken from a decision of the Shoshone County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. RPB00000352500A.

The issue on appeal is the market value of an unimproved landlocked parcel.

The decision of the Shoshone County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value of subject parcel is \$31,160. Appellant requests the land value be reduced to \$11,930.

The subject property is 15.9 acres of landlocked, timbered (unimproved) hillside near the city limits of Wallace.

Appellant claimed the sale properties used by Respondent were not comparable to subject property. Appellant reasoned that since there were no sales of landlocked vacant land, property like subject is not in demand and the assessed increase is out of line.

Appellant filed an appeal with the County BOE. In the BOE's attempt to equalize assessed values, it increased the value of the subject property. The increase was to rectify what was perceived to be inequities in assessed values between subject and other landlocked property. As a result, subject's assessed value increased from \$23,860, or \$1,500 per acre, to \$31,160 or

\$1,960 per acre.

Respondent acknowledged there were no bare land sales in 2005 or any sales of property similar to the subject for comparison. The County analyzed sales of improved residential property to develop a trend for all residential property. The comparison of assessed values to sale prices indicated 2005 assessed values were about 50% below the statutory market value requirement. The County then applied an across the board positive trend of 200% to all vacant and improved, residential 2005 assessed values. Subject's assessed value reportedly includes an adjustment of minus 25% for lack of access.

Respondent's Exhibit No. 1 included an Agreement for the sale of 4.5 acres of the subject property in 1979 for \$9,500, or \$2,110 per acre. The agreement included an acknowledgment that there was no guaranteed right of access and that the sellers had been paid for the loss of access by the State of Idaho.

In response, Appellant noted the 1979 sale fell through. The buyers withdrew when an unsuccessful attempt was made to secure access to subject from Interstate 90.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state for property tax purposes.

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

According to the record, there were unequal assessments in 2005 for landlocked property adjacent to Wallace. Subject's assessed value was originally increased 200%, and then increased further by the BOE to equalize assessments.

The record contained no bare land sales to analyze. Presumably there were no sales of property with only foot access.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979)

To assess subject's 15.9 acres at the same rate per acre as 2.02 and 3.74 acre parcels does not consider economy of scale. The County equalization does not appear to have taken this appraisal principle and typically true value factor into consideration. Subject's land size is considerably larger than two acres. We find the assessment should be reduced to reflect a lesser value per acre than far smaller lots.

Without the right of unhindered ingress and egress, the actual and functional use of land is severely undermined. The lack of recent bare land sales makes the assessment of vacant land difficult. We find the approximate 2006 increase in assessed value of 275% unsupported and excessive. This is particularly so when considering other vacant lot assessments were trended by 200%.

Although we understand the ratio study and its associated impact on assessed values, we do not find good support for the increase in assessed value of this property. No sales of similar property are present and subject's larger size was not adequately considered.

Therefore the Board will modify the decision of the Shoshone County Board of Equalization and reduce the subject assessment 50% to reflect economy of scale, for a final value of \$15,580.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease to \$15,580.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 8th day of March, 2007.